



Antibribery Programs and Transparency in International Organizations

In the reporting requirements, Congress has directed that the annual report should include an assessment of antibribery programs and transparency with respect to international organizations covered by the IAFCA. More than eighty organizations fall within the IAFCA's purview. They include large institutions, such as the World Bank, International Monetary Fund (IMF) and the World Trade Organization (WTO), as well as smaller and less well-known technical bodies.

Under the Convention, any official or agent of a public international organization is considered a "foreign public official" and thus must be covered by a legal prohibition against bribery. Since the FCPA did not include officials of public international organizations in its definition of a "foreign official," the United States needed to amend the FCPA to bring it into conformity with the Convention. The amendment, embodied in the IAFCA, applies this provision to all public international organizations designated by executive order under Section 1 of the International Organizations Immunities Act (22 U.S.C. 288) (IOIA) and to any other international organization designated by the President by executive order for the purposes of the FCPA.

U.S. agencies have selected for review several major international organizations that have the potential to affect international bribery on a large scale through

their policies and activities. International financial institutions, including the IMF, the World Bank, and regional development banks, are particularly important because they extend financial assistance or fund commercial contracts amounting to billions of dollars annually in countries around the world. They need to take particular care to guard against bribery and corruption in the countries where they operate. We have included the WTO, the United Nations, the Organization of American States (OAS), the OECD and, for the first time this year, the Organization for Security and Cooperation in Europe (OSCE) because of their active work in promoting international antibribery initiatives and encouraging national governments to strengthen relevant domestic laws. In light of Section 5 of the IAFCA, we have also examined the policies on bribery and transparency of INTELSAT and the International Telecommunications Union (ITU), since their operations can have a significant impact on competition in satellite communication services.

As a matter of policy, the United States seeks to encourage all public international organizations to maintain high standards of ethics, transparency, and good business practices in their operations. The greater attention given to international bribery issues over the past several years, in the OECD and other forums, has helped to promote positive change in many organizations.

International Telecommunications Organizations

INTELSAT

This section of the report addresses the request for information on antibribery programs and transparency with respect to the International Telecommunications Satellite Organization (INTELSAT), an international organization covered by the IAFCA. Chapter 10 assesses the advantages in terms of immunities, market access, or otherwise of INTELSAT as an international satellite organization described in Section 5 of the IAFCA. Overall, we find that INTELSAT has the requisite tools in place to address antibribery and transparency issues in its policies and programs.

INTELSAT, as established under the terms of the Agreement Relating to the International Telecommunications Satellite Organization (“INTELSAT Agreement”), has four organs. These include: (1) the Assembly of Parties, the principal organ of INTELSAT composed of all INTELSAT parties (national member governments); (2) the Meeting of Signatories, composed of all INTELSAT signatories (the parties or the telecommunications entities designated by each party to invest in and participate in the commercial operations of INTELSAT); (3) the Board of Governors, composed of governors representing certain signatories and groups of signatories; and (4) INTELSAT management, the executive organ, responsible to the Board of Governors, which handles the day-to-day business operations of the organization. The discussion below focuses on the Board of Governors and INTELSAT management, as these two organs have virtually all responsibility for the organization’s business decisions and transactions (subject to ultimate oversight by the parties).

Decisionmaking in the Board of Governors

Most of INTELSAT’s major business decisions are made within the INTELSAT Board of Governors. The Board is typically composed of just over twenty-five members representing signatories with more than a specified investment share in the organization, and groupings of a number of signatories with smaller investments. In addition, mechanisms exist within the INTELSAT Agreement to promote representation of each of the geographic regions defined by the Plenipotentiary Conference of the International Telecommunication Union (Montreux, 1965). As of March 1, 2000, the Board was composed of twenty-seven mem-

bers representing approximately 110 INTELSAT signatories.¹

Decisions by the Board are generally made on the basis of consensus, without calling for a vote. If votes are necessary for a decision on a substantive question, decisions are taken either by an affirmative vote cast by at least four governors having two-thirds or more of the total voting participation of all signatories and groups of signatories represented on the Board, or by an affirmative vote by the total number of governors minus three, without regard to the amount of their voting participation. Through Comsat, the U.S. signatory, the United States has the largest investment share in INTELSAT (20.42 percent as of March 1, 2000) and the largest proportional voting share within the Board of Governors.²

In addition, Article X(b)(i) of the INTELSAT Agreement provides that the Board of Governors is required to “give due and proper consideration to resolutions, recommendations, and views addressed to it by the Assembly of Parties or the Meeting of Signatories.” This provides a mechanism for parties and signatories to oversee or otherwise affect the actions of the Board of Governors and, in doing so, the operations of the organization. Moreover, the U.S. government, and increasingly other governments, send representatives to the Board meetings accredited as part of their signatory delegations. (The U.S. representatives are present as part of the U.S. government “instructional process” created pursuant to statute and executive order to provide policy guidance to Comsat for its participation in the Board and other INTELSAT meetings.)

INTELSAT Provisions Regarding Procurement

The procurement of telecommunications satellites and related assets are among INTELSAT’s largest business transactions. The Board of Governors is required to adopt procurement procedures, regulations, and terms and conditions that are consistent with the INTELSAT Agreement. It reviews and approves individual major procurements and any substantive deviations from INTELSAT’s standard terms and conditions that are considered significant departures from INTELSAT practice, or which raise significant policy issues. These procurement decisions, and decisions on more minor procurement matters, are carried out by the INTELSAT management.

INTELSAT’s Administrative Policies and Procedures Manual (ADM), which sets forth the official policy of the INTELSAT management, includes a particular section addressing inappropriate conduct in the procure-

ment process. It provides detailed guidelines for procurement and the reporting of any concerns or inappropriate actions on the part of proposers or staff during or prior to the procurement process. Moreover, the INTELSAT Agreement establishes a process under which, in general, the award of INTELSAT procurement contracts is based on responses to open international invitations to tender, and is made to bidders offering the best combination of quality, price, and the most favorable delivery time.

In certain exceptional circumstances, the INTELSAT Board of Governors may decide to procure goods and services other than on the basis of responses to open international invitations to tender. Exceptions can be made when the estimated value of the contract does not exceed a certain dollar value determined by the Meeting of Signatories or when other particular circumstances described in Article 16 of the Operating Agreement exist. Article 16 provides for exceptions where procurement is required urgently to meet an emergency situation involving the operational viability of the INTELSAT space segment; where the requirement is of a predominantly administrative nature best suited to local procurement; and where there is only one source of supply to a specification which is necessary to meet the requirements of INTELSAT or where the sources of supply are so severely restricted in number that it would be neither feasible nor in the best interest of INTELSAT to incur the expenditure and time involved in open international tender, provided that where there is more than one source they will all have the opportunity to bid on an equal basis.

Policy on Conflicts of Interest and Contributions

INTELSAT established in 1991 (and revised in 1997) a Statement of INTELSAT on Conflicts of Interest and Contributions. This policy, adopted by the Board of Governors and set forth in the ADM, applies to all INTELSAT staff, including staff on regular, fixed-term, part-time, or temporary appointments. The policy specifically addresses the potential for improper payments, contributions, or other transactions and establishes a policy under which INTELSAT employees may not pay or offer any monies, gratuities, or favors from INTELSAT funds to government officials or personnel of any country or to any individual or organization. Contributions may not be made from INTELSAT funds to any political party, politician, or candidate for public office of any country. Gifts from INTELSAT funds of greater than a nominal value must be properly documented and approved

by the director general and CEO or an officer designated by him. INTELSAT employees may not accept cash gifts. The policy establishes clear guidelines for handling nonmonetary gifts and the review of any gifts of greater than nominal value by the general counsel and the director general and CEO.

The policy on conflicts of interest includes an annual reporting requirement for all employees, requiring all employees to certify annually in writing that they have reviewed the policy and that they have been and are complying with it in all respects. The director general and CEO then reports to the Board of Governors his determinations of any actual or potential conflict of interest reported, based on written recommendations by the vice president and general counsel. The Board generally reviews these determinations at its December quarterly meeting.

INTELSAT Audit Procedures

In 1987, a fraudulent and corrupt scheme involving the construction of INTELSAT's new headquarters building was uncovered by INTELSAT employees. The matter was reported to INTELSAT's external auditors and the Chairman of the INTELSAT Board of Governors. The Chairman immediately suspended the two involved INTELSAT officers—the director general (an American citizen) and the deputy director general (a Venezuelan citizen)—and the Board subsequently removed them from office. The immunities of both of these officers were waived by INTELSAT and both were ultimately convicted in U.S. courts of criminal behavior. INTELSAT has instituted civil actions against the two individuals in an effort to collect damages from them. This incident led to the creation of additional audit mechanisms and oversight. These are detailed below.

There are three separate vehicles for auditing INTELSAT activities and/or records on a regular basis. First, INTELSAT has an Internal Audit Department to serve an independent appraisal function. The audit department has been given broad authority to review INTELSAT activities and records and to provide analyses, recommendations, and other comments to the management following its review. Second, the INTELSAT Board of Governors has established an Audit Committee of the Board, to help ensure the soundness of INTELSAT's financial administration, audit, and reporting process. Finally, Article 12 of the INTELSAT Operating Agreement provides that "The accounts of INTELSAT shall be audited annually by independent auditors appointed by the Board of Governors. Any signatory shall have the right of inspection of INTELSAT

accounts.” In recent years, Arthur Andersen LLP has audited the balance sheet and related financial statements of INTELSAT.³

International Telecommunication Union

The International Telecommunication Union (ITU) facilitates cooperation among 189 member states on the improvement and rational use of international telecommunications of all kinds. The ITU also encourages participation of other organizations and private sector entities in the activities of the ITU and promotes their cooperation with member states to advance ITU goals.

The ITU decisionmaking process is essentially transparent and open to review and oversight by all member states. ITU members consider the views of governments, private sector entities, and other organizations when undertaking activities that result in regulations, procedures, and recommendations on the operation of global telecommunication systems and services. ITU staff serve as the secretariat for ITU meetings and have responsibility for coordinating and publishing telecommunication service data needed for the operation of services. Important decisions, however, are made by the member states themselves, not by the secretariat.

Members states of the ITU meet approximately every four years at a plenipotentiary conference. At this conference, members elect the secretary general, the deputy secretary general, and three sector directors (the director of radiocommunication, the director of telecommunication standardization, and the director of development). The plenipotentiary conference also elects the ITU Council, which meets annually, and the Radio Regulations Board. The Council is responsible for overseeing ITU activities between conferences. World radiocommunication conferences are held every two to three years to revise the radio regulations that allocate global frequencies and establish procedures for countries to assign frequencies and orbit positions. Radio regulations are adopted in a transparent manner by a consensus of the member states.

Member states, private sector entities, and other interested organizations participate in the work of each ITU sector. The Telecommunication Standardization Sector studies technical, operating, and tariff questions and issues recommendations. Matters of particular concern to developing countries are studied by the Development Sector. Recommendations issued by the sectors are not binding on members but are generally recognized by governments and private sector companies as global standards for the design of equipment and services. The Radio Regulations Board approves rules of procedure used

by the director and Radiocommunication Bureau in the application of radio regulations.

The secretary general and the deputy secretary general are responsible for managing the ITU secretariat. In addition to providing staff for meetings and conferences, the secretariat makes the necessary financial and administrative arrangements and prepares materials used for a report on the policies and strategic plan of the ITU. The three sector directors administer specialized secretariats that support the work of study groups within their respective sectors. The U.S. is generally satisfied with the services and support provided by the secretariat for ITU meetings.

International Financial Institutions

The United States has, in cooperation with other shareholder countries, aggressively pressed the international financial institutions to put in place anticorruption strategies, policies, and programs. As a result, the major institutions—the International Monetary Fund, the World Bank, and the African, Asian, Inter-American, and European regional multilateral development banks—are playing a growing role in promoting good governance, transparency, and accountability. Significant progress has been achieved. Corruption is now recognized as an important international and development issue that must be addressed. The following sections, which were prepared by the Treasury Department, provide a summary of steps taken by the six major international financial institutions.

International Monetary Fund

The IMF has become increasingly active in recent years in the fight against bribery and corruption. The United States, in cooperation with IMF management, has played a leading role in bringing about a change in attitudes among IMF members about corruption. The traditional view was that corruption was primarily a political problem with law enforcement as its solution. It is now widely recognized that corruption adversely affects the formulation and implementation of macroeconomic and financial policies, undermines confidence in public policies and institutions, and discourages saving, investment, and economic growth.

Traditional Emphasis on Good Governance

The IMF's normal functions and priorities have always been supportive of good governance in member countries. Its promotion of free and open markets, price decontrol, and trade and capital market

liberalization has resulted in increased transparency as well as greater economic efficiency. Support for central bank independence and the end to directed credits and preferential lending have struck at the core of some corrupt practices. Encouragement of respect for contracts and privatization of state-owned firms has also contributed to good governance. The IMF has promoted transparency in governmental fiscal policies and in related activities such as privatization. Where countries maintain international payments restrictions, the IMF encourages their implementation via market-related means rather than individual licensing decisions.

New Awareness of Corruption as an Economic Problem

The IMF is placing an increasingly strong emphasis on explicitly addressing governance and corruption problems and promoting good governance in the context of IMF surveillance and assistance programs. The first of two breakthroughs with regard to attitudes toward corruption in member countries came in 1996, when the Partnership for Sustainable Global Growth underscored the need for “promoting good governance in all its aspects, including by ensuring the rule of law, improving the efficiency and accountability of the public sector, and tackling corruption, as essential elements of a framework within which economies can prosper.”

The IMF’s second major step was the issuance in 1997 of guidance on the role of the IMF in governance issues. The guidance called for “a more comprehensive treatment of governance in both Article IV consultations and IMF-supported programs within the IMF’s mandate and expertise [and] a more proactive approach in advocating policies and the development of institutions and administrative systems that aim to eliminate opportunities for rent seeking, corruption and fraudulent activity.”

Analysis of Corruption’s Impact on Economic Policy and Growth

In 1996, IMF staff produced studies on the implications of money laundering for macroeconomic performance and the international financial system. In 1997, the staff released a paper on Corruption, Public Investment, and Growth and conducted a seminar on Corruption, Governance, and Economic Policy.

Corruption: Applying Principles to Country Cases

In a major speech in January 1998, Managing Director Michel Camdessus said that domestic corruption and the lack of transparency about underly-

ing economic and financial conditions contributed to the Asian financial crisis. He noted that IMF economic reform programs with Korea, Thailand, and Indonesia included internationally accepted auditing and accounting practices, disclosure rules, and capital adequacy standards. The IMF in 1997 had allowed an Enhanced Structural Adjustment Facility (ESAF) program to lapse in Kenya (i.e., suspended financial assistance) because of concerns that corruption was interfering with Kenya’s ability to fulfill its economic policy commitments.

Indeed, in recent years it has become standard operating procedure in IMF programs to include measures to strengthen governance and eliminate corruption. This also applies to Poverty Reduction and Growth Fund programs, which involve a special focus on budgetary management and transparency. For a growing list of countries, addressing governance and corruption has been an important element of the IMF’s policy dialogue with national authorities.

Some examples: In Cote d’Ivoire, the ESAF program has been suspended since March 1999 because of IMF concerns about several unresolved governance issues in addition to serious weaknesses in the fiscal area and delays in important structural reforms. The IMF is willing to resume negotiations of the second annual ESAF with Cote d’Ivoire after these issues are effectively addressed. Indonesia’s program was suspended until the IMF was satisfied with Indonesian action on several issues including whether the Indonesian authorities conducted a full audit of the banking transactions involved in the Bank Bali scandal, publicly disclosed their findings, and committed to prosecuting the wrongdoers.

Promoting Sound Practices and Transparency

In April 1998, the Interim Committee of the Board of Governors of the IMF adopted a Code of Good Practices on Fiscal Transparency. Encouraging countries to bring their fiscal policies and practices up to the standards in the fiscal transparency code has become a routine aspect of IMF surveillance. In September 1999, the IMF also adopted a Code of Good Practices on Transparency in Monetary and Financial Policies to promote accountability of central banks and financial agencies. All members were asked to implement the code as part of good governance practices.

World Bank

Over the past several years, the World Bank has taken a high profile among development banks in elevating the corruption issue. At the 1996 annual meetings of the

World Bank and the IMF, World Bank president James Wolfensohn highlighted the “cancer of corruption” and pledged to address corruption on all fronts. In September 1997, the Executive Board approved a multifaceted plan to

- Prevent fraud and corruption within Bank-financed projects.
- Help countries that request Bank assistance to reduce corruption.
- Take corruption more explicitly into account in country lending strategies and project design.
- Increase the Bank’s cooperative support of efforts by other international organizations.

Since that time, the Bank has pressed forward on a number of fronts, including a detailed anticorruption action plan to build on previous efforts. The action plan calls for

- Assisting countries that request Bank support.
- Mainstreaming anticorruption in the Bank’s operations.
- Increasing knowledge and awareness about corruption.
- Controlling corruption in Bank-financed projects.
- Making in-house improvements.
- Supporting international efforts and partnerships.

The IDA-12 replenishment agreement strengthens the linkage between new lending and borrower performance, including explicit consideration of good governance and efforts to combat corruption.

The World Bank participates with the regional development banks in the Multilateral Development Bank Coordinating Committee on Governance, Corruption, and Capacity Building.

Internal Staff Ethics

The Bank’s Code of Professional Ethics addresses conflicts of interest, the use of Bank resources, and staff accountability. The Ethics Office has been strengthened, and the Bank has moved forward to investigate alleged staff corruption. In 1999, the Bank’s Code of Professional Ethics was updated, and an ethics helpline and an ethics webpage were launched. New harassment guidelines were issued which include sections on retaliation and confidentiality. A new grievance policy/process that emphasizes the role of informal dispute resolution (including mediation) has been developed and was implemented in 1999–2000. An Oversight Committee on Fraud and Corruption has been established to review specific instances of allegations of fraud and corruption received by any member of the Bank. A confidential telephone hotline with multilingual capabilities and a call-collect

number is available for use by Bank staff and the public. The Bank is taking steps to make the hotline better known.

The Bank has also established several additional mechanisms, e.g., an e-mail hotline address and a drop box to mail in allegations. Monitoring and investigations have been enhanced, including the use of outside experts, in an attempt to locate any problem-areas within the Bank. To date, investigations have turned up very few cases of in-house corruption, and these have been vigorously pursued by the Bank. Remedies include lawsuits and staff dismissals.

Auditing and Procurement

Special emphasis has been placed on procurement financed by the Bank. In 1996 and 1997, the Bank took the lead among the multilateral development banks by adding specific fraud and corruption language to its rules for procurement of goods and services and for selection and employment of consultants. The amendments require that all borrowers, bidders, suppliers, and contractors under Bank contracts must “observe the highest standards of ethics during the procurement and execution of contracts.” The strengthened rules state that the Bank will reject award proposals if it is determined that the bidder engaged in corrupt or fraudulent practices. It will cancel any portion of a loan allocated to a contract that was involved in corrupt or fraudulent practices. Firms will be ineligible for future Bank-funded contracts if they are determined to have engaged in corrupt activities. Procurement contracts may include provisions allowing the Bank to inspect suppliers’ and contractors’ accounts and records.

In September 1997, agreement was reached on a “no-bribery undertaking,” which could be included at a borrowing country’s request and as part of a country’s anticorruption program, on certain Bank-financed contracts. Importantly, the Bank is developing standard bidding documents (SBDs) for specialized procurement in information technology and pharmaceuticals. SBDs have an impact far wider than IBRD-financed contracts, since World Bank standard bidding documents are sometimes used by borrowing country governments for their own national public sector procurement. Disclosure of any commissions and gratuities paid in association with a bid or a contract is now included in the standard bidding documents.

The World Bank actively participates in a working group of procurement officials from all of the international financial institutions. The working group has completed a best-practice Multilateral Development Bank

Master Bidding Document for the Procurement of Goods (which is available on the World Bank's website) and has made significant progress in other areas. Additional steps will be identified through the working group to achieve agreement on uniform "best practice" procurement documents and rules among international financial institutions.

As part of the stepped-up campaign against corruption, projects are being audited by independent firms hired by the Bank. As a result of these audits, the Bank has declared misprocurement on a number of contracts. Numerous firms and individuals have been declared ineligible to be awarded a World Bank-financed contract for specified periods or indefinitely because they were found to have violated the fraud and corruption provisions of the procurement guidelines or the consultant guidelines. It is Bank policy to publish the names of these firms and individuals on its external webpage.

Research and Analysis

The Bank's current initiatives are rooted in part in its concerns about key influences affecting foreign direct investment and governance in developing countries. The Bank's 1992 Guidelines on the Treatment of Foreign Direct Investment call upon member countries to take steps to prevent and control corrupt business practices, to promote accountability and transparency in dealings with foreign investors, and to cooperate with other countries in developing international procedures and mechanisms. In its reports on governance in 1992 and again in 1994, the Bank identified public sector management, accountability, legal frameworks, and transparency and information as areas of ongoing and future Bank work.

The Bank has become the focal point for developing innovative methods for analyzing and quantifying corruption in individual countries. The World Bank Economic Development Institute has created "diagnostic" approaches to measure and better understand the nature and scope of corruption. The analysis focuses on shortcomings in policies and institutions and contributes directly to design of strategies to improve governance. The Bank approach seeks to involve the broad participation of representatives of civil society as well as the government in the analysis and related workshops and task forces in order to develop a firm grassroots commitment to transparency and the reform process. Many countries are engaged in serious empirical diagnostic exercises, and others have expressed to the World Bank an interest

in pursuing such in-depth analysis as a prelude to mounting anticorruption strategies.

The Bank is enhancing its dialogue with borrowing countries about the importance of reforming the management of their public sectors. Public expenditure reviews, country procurement assessment reports, country financial accountability assessments, and institutional reviews are fundamental building blocks in the Bank's efforts to strengthen good governance. These diagnostic reviews are essential for the formulation of borrowers' action plans to address weaknesses in public sector budgeting, financial management, purchasing, and auditing.

Assistance to Member Countries

As an increasing number of members are prepared to acknowledge and combat corruption in their countries, the Bank is undertaking to integrate anticorruption measures into its mainstream operational work through training, technical assistance, and loans. Bank assistance to countries has expanded rapidly since 1998. The Bank is working with governments and/or civil society, at their invitation, to help understand and address problems of public sector performance and corruption in systematic ways. Sometimes this is done under the rubric of a specific "anti-corruption program" and sometimes under the more general umbrella of public sector institutional reform. As of late 1999, the Bank was engaged in ongoing assistance to implement credible, concrete reforms in about ninety-five countries. The Bank has also suspended or withheld assistance to certain countries where governments resisted implementing effective anticorruption programs. With the implementation of IDA-12, governance and social policies are factors in determining the amount of IDA lending. Most recently, ten countries had their lending cut sharply because of poor governance.

African Development Bank

Corruption is having an extremely negative impact on economic development in many African nations. Poor governance and corruption are hindering proper resource management, undermining efforts to reduce poverty, and obstructing sound private sector development by discouraging both domestic and foreign private investment. The African Development Bank (AFDB) has responded to this problem and taken a leadership role in promoting good governance and combating corruption in Africa.

In 1999, the AFDB approved a formal policy on good governance. The new policy focuses on accountability, transparency, participation, and judicial reform, and gives

increased attention to the roles of the productive private sector and of nongovernmental organizations, such as Transparency International and the Global Coalition for Africa. Beyond this, formal agreement was recently reached with the AFDB shareholders to take a variety of governance and corruption issues into account in all aspects of its operations, including as a basis for lending allocations through the country performance assessment process.

The AFDB participates with the World Bank and other regional development banks in the Multilateral Development Bank Coordinating Committee on Governance, Corruption, and Capacity Building.

Internal Staff Ethics

The Articles of Agreement of the AFDB mandate that the AFDB maintain control mechanisms that preclude all forms of fraud and corruption from its lending and technical assistance operations. The AFDB is committed to high standards of transparency and accountability among its own staff and is working with international agencies and both foreign and African nongovernmental organizations to eliminate corruption. Internal controls have been enhanced and will be strengthened further—for example, through specific anticorruption training.

Auditing and Procurement

The AFDB has focused on the importance of an efficient and competitive procurement process, both in AFDB-financed projects and public sector procurement in member countries. In 1996, the AFDB significantly revised and improved its rules of procedure for the procurement of goods and services. The AFDB requires the use of standard bidding documentation for international competitive bids and has improved procedures to ensure that procurement under AFDB projects is as transparent as possible. The AFDB has overhauled its procurement review process and Procurement Review Committee to improve monitoring.

In 1999, the AFDB Board approved explicit fraud and corruption amendments to the AFDB rules. The amendments require that all borrowers of Bank loans, bidders, suppliers, contractors, and concessionaires under AFDB contracts must “observe the highest standards of ethics during the procurement and execution of contracts.” The AFDB requires that borrowers include provisions against corrupt practices in the bidding documents.

Under the strengthened rules, the AFDB will reject award proposals if it is determined that the bidder

engaged in corrupt or fraudulent practices. The AFDB will also cancel the portion of a loan allocated to a contract that was involved in corrupt or fraudulent practices. Firms will be ineligible for future AFDB-funded contracts if they are determined to have engaged in corrupt activities. Procurement contracts may include provisions allowing the AFDB to inspect suppliers and contractors accounts and records. A “no-bribery undertaking” could be included at a borrowing country’s request and as part of a country’s anticorruption program, on certain AFDB-financed contracts. The AFDB requires that borrowers use AFDB standard bidding documents. As part of the stepped-up campaign against corruption, seven firms have been declared ineligible to be awarded an AFDB-financed contract for specified periods because they were found to have violated the fraud and corruption provisions of the procurement guidelines or the consultant guidelines.

The AFDB actively participates in a working group of procurement officials from all the international financial institutions. The working group has completed a best-practice Multilateral Development Bank Master Bidding Document for the Procurement of Goods and has made significant progress on three other documents. However, additional steps need to be taken through the working group of procurement officials from the multilateral development banks to achieve agreement on uniform “best practice” procurement documents and rules among international financial institutions.

Analysis and Research and Outreach

The AFDB is committed to supporting research by both national and regional research centers to study the causes and implications of corruption in African societies. It is strengthening its own institutional capacity for analysis of governance issues and corruption in African member countries. In addition, the AFDB, World Bank, and IMF recently established a joint institute in Abidjan that will provide a forum for more effective cooperation in analysis of the full range of Africa’s economic challenges, including corruption.

The AFDB also is working to increase awareness of the negative effects of corruption and in November–December 1998 hosted an important conference on “Public Procurement Reform in Africa,” which was attended by ministers and high-level officials from thirty-two African countries. The conference was a watershed event in opening a dialogue on public procurement to promote improvements in how public resources in Africa are managed. The conference emphasized the need for com-

mitment to the reform process at the highest levels of government in order to support legal, organizational, and professional institutional changes.

Assistance to Member Countries

The AFDB has been taking corruption and governance into account in its country strategy papers. Now this work is being expanded as the AFDB explicitly incorporates governance into its country performance assessments and subsequent resource allocation decisions. It has focused especially on support of civil service and judicial reforms to raise the level of human resources and technical know-how of procurement and law enforcement officials and thereby improve the detection and punishment of corrupt practices. The new policy emphasis on governance is expected to link lending programs directly to commitments to formal governance efforts by the borrowing countries.

Asian Development Bank

The 1998 annual report of the Asian Development Bank (ADB) states that corruption played “a central role in weakening governance institutions that contributed to the Asian financial crisis” and was “one of the key problems behind the currency turmoil, corporate bankruptcies, and falling stock markets that have plagued the region since July 1997.”

In July 1998, the ADB adopted an official anticorruption policy built around three objectives: (1) supporting competitive markets and efficient, accountable, transparent public administration; (2) supporting promising anticorruption efforts and improving the quality of the ADB’s dialogue with its developing member countries on governance, including corruption issues; and (3) ensuring that the ADB’s staff, projects, and programs all adhere to the highest ethical standards.

The anticorruption policy is an extension of the ADB’s formal Good Governance Policy adopted in 1995. That policy represents an institutional commitment to making governance a fundamental concern and focus of ADB operations. It sets forth four principles of good governance—accountability, transparency, predictability, and participation—and commits the ADB to integrating governance activities into its operations, programs, and technical assistance. The Bank, led by its donors, is currently drafting an action plan to deepen and broaden its work in promoting good governance.

The ADB has created a specific Anticorruption Unit within the Office of the General Auditor. The ADB also participates with the World Bank and other regional development banks in a new Multilateral Development

Bank Coordinating Committee on Governance, Corruption, and Capacity Building.

Internal Staff Ethics

The ADB has updated and strengthened its code of conduct for staff and has issued staff guidelines specifically regarding anticorruption issues. It also has created internal mechanisms to address allegations of corruption and to improve recruitment, regulations, procedures, and management. In particular, the ADB has recruited a core of specialists in public sector management and institutional development. Training programs on ethics and forensic accounting have been developed. New rules have also been adopted to protect whistle blowers and require sanctions, including possible dismissal and prosecution, for staff found to be involved in fraud and other forms of corruption.

Auditing and Procurement

The ADB has strengthened its auditing functions and capacities. The Office of the General Auditor conducts independent appraisals and audits of the ADB’s financial, accounting, and administrative operations.

The ADB also has strengthened its procurement rules. Amendments approved in 1998 and 1999 add specific language on fraud and corruption and no-bribery pledges and require the use of ADB standard bidding documents. In the rules, the definition of corrupt practice includes the behavior of private as well as public officials. Contract documents must include an undertaking by the contractor that no fees, gratuities, rebates, gifts, commissions, or other payments, other than those shown in the bid, have been given or received in connection with the procurement process or in the contract execution.

The ADB actively participates in a working group of procurement officials from all of the international financial institutions. The working group has completed a best-practice Multilateral Development Bank Master Bidding Document for the Procurement of Goods and has made significant progress on three other documents. Additional steps will be identified through the working group to achieve agreement on uniform “best practice” procurement documents and rules among international financial institutions.

Research and Analysis

The ADB’s activist stance on corruption responds in part to new research showing that corruption has significantly reduced the performance of the Asian economies by distorting public investment, discouraging private investment, and wasting resources. The

ADB has identified a variety of corrupt practices in the region. These include illicit payments and misappropriations of funds, outright theft and sale of posts or promotions, procurement fraud, disclosure of false financial information, extortion, abuse of judicial and tax offices, and design and selection of uneconomical projects to create opportunities for kickbacks. The ADB's new policies are aided by efforts now made by all ADB members to prohibit the bribery of public officials.

The ADB's analytical priorities are to improve its understanding of the unique corruption problems in individual Asian countries, provide more effective delivery of anticorruption assistance to ADB members, and learn from approaches to fighting corruption and establishing norms for good practices in other parts of the world.

Assistance to Member Countries

The ADB has identified six key areas of governance for special attention in its assistance to members: (1) participation, civil society, and social capital; (2) law and development; (3) the interface of the public and private sectors; (4) project and sector assistance; (5) core government functions at the national level; and (6) decentralization. The emphasis and precise form of future assistance to borrowers will vary depending on the country.

Recent examples of projects already containing governance and anticorruption components are loans for financial sector reform in Indonesia, Korea, and Thailand and for corporate governance and enterprise reform in the Kyrgyz Republic. Examples of anticorruption technical assistance are capacity building in project accounting in Kazakhstan, the Kyrgyz Republic, and Uzbekistan. A governance reform program for Mongolia was approved in 1999. A series of public reform/civil service streamlining programs are taking place in several Pacific Island countries. Legal reform and training work are being carried out in China, Tajikistan, and Pakistan. Ongoing assistance to increase public accountability includes establishment of an anticorruption commission in Indonesia, strengthening the government auditing system of China, establishing the National Audit Office in Lao PDR, and training the members of Supreme Audit Institutions in the South Pacific. The ADB's law and development activities support operations such as energy regulation, promotion of public participation in the reform of agriculture and forestry, reform of banking and capital market laws, and strengthening of bankruptcy and liquidation regulation.

European Bank for Reconstruction and Development

The European Bank for Reconstruction and Development (EBRD) operates in Central and Eastern Europe and the former Soviet Union. Unlike the other regional banks that concentrate on assistance to developing countries, the EBRD's borrowing members are countries in transition from centrally planned to market economies. EBRD funds are used strictly to finance projects that meet commercial criteria, would not be fully financed by the private sector on appropriate terms, and have transition impact. The EBRD does not do program or structural adjustment lending. It has no soft window. The EBRD is aware that rapid political and economic change in these countries, including large-scale privatization of state-owned companies, has created widespread opportunities for the diversion of both financial assets and exportable commodities, corruption in public works concessions, and serious economic crimes such as fraud and embezzlement.

As most of the EBRD's projects are with the private sector, the EBRD has directed substantial effort to improving corporate governance through increased accountability, transparency, and respect for the rights of minority shareholders. In the aftermath of the Russian financial crisis, the EBRD has intensified its effort to improve enforcement of sound corporate law. In 1999, the EBRD introduced legal action against several companies in its countries of operation for asset stripping and poor corporate governance. The EBRD has reinforced its court actions by strongly advocating sound and independent judicial, regulatory, and supervisory frameworks in its public statements and dialogue with national and local authorities. The EBRD has also increased its scrutiny of countries' legal codes and has made corporate governance a central priority in its country strategies and project documents. In response to the Russian crisis, the EBRD has completed a thorough review of its portfolio including due diligence on clients' management practices.

The EBRD participates with the World Bank and other regional development banks in the Multilateral Development Bank Coordinating Committee on Governance, Corruption, and Capacity Building.

Internal Staff Ethics

The EBRD's main internal focus has been on encouraging a culture of ethical behaviour within the EBRD itself. In addition to educating staff to be aware

of and look out for fraud and corruption, the EBRD has also established rules and procedures for avoiding and detecting corrupt practices in EBRD-financed projects (which are predominantly private sector projects) and technical assistance.

The EBRD established a strong code of conduct to regulate the behaviour of staff. The code broadly defines corrupt practices and provides for close monitoring and disciplinary procedures. Staff are required to file statements of compliance with the code. The receipt of gifts and honoraria is strictly controlled, and illegal or improper payments are strictly forbidden. A management group consisting of the general counsel, director of personnel, and head of internal audit oversees the code of conduct, with all matters ultimately going to the president of the EBRD.

Auditing and Procurement

To increase transparency and accountability within the EBRD, there is a system of checks and balances involving an independent internal auditor, an external auditor, and the audit committee of the board of directors.

The EBRD has recently hired a compliance officer who will act independently and report to the president to monitor potential internal conflicts of interest and to investigate all possible ethical infringements within the staff or between staff and clients.

The EBRD routinely performs due diligence on prospective private and public sector clients. Its due diligence process verifies that procurement and contracting is carried out with no conflict of interest and that purchasing methods that ensure a sound selection of goods and services at fair market prices have been applied in the best interest of the EBRD's clients. Loan and certain other agreements between the EBRD and clients typically include a number of covenants (such as compliance with international accounting standards, annual external audits of accounts, and strict limits on lending to affiliated parties), supported by appropriate EBRD procedures, which further limit the opportunity for corrupt practices and money laundering or which would enable the EBRD to detect their occurrence. Among the multilateral development banks, the EBRD has developed cutting-edge approaches to due diligence on private sector operations.

The EBRD's procurement rules were strengthened in February 1998. New fraud and corruption language is aimed at the procurement process as well as the execution of contracts for goods, works, and services in the areas of public sector operations, the selection of

concessionaires, and the selection of consultants. The rules were amended to allow the EBRD to reserve the right to consider corruption in the context of contracts not financed by the EBRD. Furthermore, the EBRD may impose certain sanctions, including blacklisting, against clients or firms found by a judicial process or other official enquiry to have engaged in corrupt or fraudulent practices. In 1999, the EBRD strengthened the standard terms and conditions of loan agreements that govern the EBRD's legal options in cases of money laundering and poor corporate governance.

The working group of procurement officials from all of the multilateral development banks provides a good forum to achieve agreement on uniform "best practice" procurement documents and rules among international financial institutions. The EBRD actively participates in this working group, which has completed a best-practice Multilateral Development Bank Master Bidding Document for the Procurement of Goods and has made significant progress on three other documents. Additional steps will be identified through the working group to achieve agreement on uniform "best practice" procurement documents and rules among international financial institutions.

Assistance to Member Countries

The EBRD helps countries to develop a legal framework that supports promotion of private sector activities and transition towards market-oriented economic policies. Through its Legal Transition Program, the EBRD has provided technical assistance on secured transactions law, bankruptcy law, and concessions law, and developed guidelines on good corporate governance. Helping transition countries to create a predictable environment, based on the rule of law, will increase transparency and accountability and reduce opportunities for corruption.

Outreach

The EBRD has begun to cooperate with other national and international organizations to combat financial crimes and money laundering. In particular, the EBRD works closely with the OECD working groups on money laundering and tax evasion, as well as Europol. If there are questions on good standing of prospective clients, EBRD works with governments and private investigators to fully understand project sponsors and sources of funds.

Inter-American Development Bank

A clear consensus has developed among sharehold-

ers of the Inter-American Development Bank (IDB) on the need for modernization and reform of the public sector and on the role of a smaller, more efficient government that operates with accountability and transparency. The IDB finances activities intended to implement this consensus to reform those regulatory or institutional frameworks and aspects of government that most easily provide opportunities for public corruption and fraud.

In December 1994, the IDB was given a clear mandate from hemispheric leaders at the Summit of the Americas to assist countries in combating corruption. In initial fulfillment of that mandate, the IDB created in 1996 a Task Force on Corruption and Other Financial Crimes.

Currently, the IDB is dealing with the issue of corruption at three levels: (1) supporting activities in member countries and in the region, (2) ensuring that IDB-funded projects and IDB staff maintain highest standards, and (3) participating in the international dialogue on corruption. The IDB participates with the World Bank and other regional development banks in the Multilateral Development Bank Coordinating Committee on Governance, Corruption, and Capacity Building.

Internal Staff Ethics

The IDB has in place a code of ethics to ensure the integrity of its employees. Alleged impropriety is investigated by the Office of the Auditor General. Additional safeguards are provided through an ethics committee, a conduct review committee, and an independent investigation mechanism (a permanent roster of expert investigators). Cases of malfeasance are few but have resulted in forced terminations.

Auditing and Procurement

In January 1998, the IDB strengthened its basic procurement policies and procedures by adding specific fraud and corruption language. Under the new policy, if it is demonstrated that there have been corrupt practices, the IDB will reject a proposal to award a contract, declare a firm ineligible for future contracts under IDB-financed projects, and/or cancel a portion of the loan or grant. The IDB may require that bid documents include provisions that allow the IDB to audit suppliers' and contractors' accounting records and financial statements pertaining to the execution of a contract. At the request of the borrowing country, a "no-bribery pledge" may be included in the bid documents.

The working group of procurement officials from all of the multilateral development banks provides a good

forum to achieve agreement on uniform "best practice" procurement documents and rules among international financial institutions. The IDB actively participates in this working group which has completed a best-practice Multilateral Development Bank Master Bidding Document for the Procurement of Goods and has made significant progress on three other documents. Additional steps will be identified through the working group to achieve agreement on uniform "best practice" procurement documents and rules among international financial institutions.

Research and Analysis

The IDB has begun to study the specific problems of corruption in Latin America. Studies on corruption in public health services and on asset laundering are under way and will be completed later this year.

In February 1998, the IDB hosted a seminar on Efficiency and Transparency in Public Sector Procurement, which was attended by ministers and high-level officials from many countries in Latin America and the Caribbean. The conference focused on four key procurement-related areas (legal frameworks, state reform, information technology, and financial management) to promote a more open dialogue on public procurement and the fight against corruption.

The IDB also hosted a Conference on Transparency and Development in Latin America and the Caribbean in May of 2000. The conference covered a variety of topics, including the IDB's policy on corruption, regional anti-corruption initiatives, and the future of the Inter-American Convention Against Corruption.

Assistance to Member Countries

The IDB has provided assistance to borrowers to reform tax, customs and financial systems; modernize the public sector; define the state's role in the economy; strengthen the executive, judicial, and legislative branches; and establish appropriate regulatory and governmental supervision functions. Improvement in all of these activities serves to discourage and deter corruption. In 1999, the IDB Fund for Special Operations financed \$37 million in projects aimed at strengthening governance and accountability, and building capacity in public institutions. Examples are loans to strengthen tax and customs administration in Nicaragua and to improve the access of the poor to the justice system in Bolivia.

More recently, the IDB has initiated regional projects to support implementation of the Inter-American Anticorruption Convention in twelve countries and has organized a number of workshops to pro-

mote integrity in financial markets. Other regional anticorruption initiatives included a seminar in 1998 on international money laundering, a training program for banking regulators and banking officials, and a study for judges and prosecutors that will support training activities in prosecuting asset-laundering cases.

Much, however, still remains to be done to effectively integrate awareness of corruption and necessary countermeasures into the IDB's routine analysis, evaluation, technical assistance, and country lending programs.

Major International Organizations

Organization of American States (OAS)

Over the past several years, the Organization of American States (OAS) has played an active role in the fight against bribery and corruption in the Western Hemisphere. In public statements and joint resolutions, the OAS has underscored its concern about the negative impact of corrupt practices on good governance, economic development, and other national interests. OAS members have become increasingly aware that corrupt practices thwart the process of development by diverting resources needed to improve economic and social conditions. They have also come to recognize that corruption is an obstacle to the observance of human rights.

Debate in the 1994 OAS General Assembly sparked a long-term commitment to address the problems of bribery and corruption in the hemisphere. Members called for stronger efforts to fight corruption, improve the efficiency of government operations, and promote transparency in the management of public funds. To advance these goals, the General Assembly adopted a resolution establishing the Probity and Public Ethics Working Group with a mandate to study issues related to good governance and ethics. The working group has been meeting regularly since then.

The first Summit of the Americas held in Miami in 1994 also included as one of its major themes the need to address corruption. Democratically elected leaders of OAS member states issued a Summit Plan of Action that, among other things, mandated negotiation of an Inter-American Convention Against Corruption. The convention was successfully negotiated and signed by twenty-one countries on March 29, 1996. Four additional countries later joined the convention, including the United States, which signed on June 2, 1996. The convention entered into force on March 6, 1997. Of the twenty-five

countries that signed the convention, nineteen have ratified it as of June 2000.

The Clinton Administration has actively supported this OAS initiative. The President transmitted the Inter-American Convention to the Senate for its advice and consent to ratification on April 1, 1998. Although the Senate has not yet acted on the Convention, the Senate Foreign Relations Committee held a hearing on it on May 2, 2000. At the hearing, Under Secretary of State for Economic and Business Affairs Alan Larson testified that "U.S. leadership will be critical for ensuring the implementation of the obligations of the Convention," and that "[b]y becoming a Party to the Convention, the United States will be better placed to promote its effective implementation." Representatives of the Council of the Americas, Transparency International USA, and the American Bar Association also attended the hearing and spoke strongly in favor of the convention.

The Inter-American Convention addresses a broad range of corrupt acts, including purely domestic corruption as well as transnational bribery. Signatories agree to enact legislation that makes it a crime for individuals to offer bribes to public officials and for public officials to solicit and accept bribes. It is, therefore, considerably broader in scope than the OECD Convention, which covers only the offering, promising, or giving of bribes to foreign public officials.

Reflecting continued member interest in the problems caused by unethical practices, the OAS also adopted in 1997 an Inter-American Program for Cooperation in the Fight Against Corruption. The program called for several initiatives:

- Adopting a strategy to secure prompt ratification of the convention.
- Conducting comparative studies of legal provisions in member states.
- Drafting codes of conduct for public officials.
- Implementing a system of consultations with international organizations.
- Conducting media campaigns.
- Formulating educational programs.

At the second Summit of the Americas held in Santiago on April 18–19, 1998, hemispheric leaders endorsed implementation of the anticorruption program and prompt ratification of the Inter-American convention. The leaders also supported the holding of workshops and other follow-up activities related to the convention, including a symposium on enhancing probity in the hemisphere that was held in Chile later in 1998. They approved several other anti-corruption initiatives: an asset laundering study, codes of conduct for public

officials, information campaigns on the ethical values that sustain the democratic system, and concrete action to promote good governance, such as legislation that obliges senior public officials to disclose personal assets and liabilities.

To assist members in implementing the convention, in August 1998 the OAS Inter-American Juridical Committee approved model legislation on illicit enrichment and transnational bribery. The committee subsequently prepared a report on the subject and a guide to the model law for legislators.

Over the past year, the OAS Working Group on Probity and Public Ethics has met twice, in September 1999 and in March 2000, to continue discussion of anticorruption issues and possible new measures for promoting good governance and business integrity. At the March 2000 meeting, the working group released a questionnaire soliciting information about obstacles to ratification and implementation of the Inter-American convention among countries that had supported the convention. Many experts attending the meeting also recommended establishing an effective mutual evaluation mechanism to review progress toward meeting the convention's requirements.

Organization for Economic Cooperation and Development

The OECD has served as a key forum for industrial countries in developing an international consensus on combating international bribery and corruption. Its membership is composed of twenty-nine countries, including most of the major trading partners of the United States. OECD members share a commitment to market-oriented policies, good governance, and democratic practices. Because of these common interests, consensus for joint action has often been more practical to achieve within the OECD than within larger, more diverse international organizations.

Over the past several years, the OECD has helped to facilitate two important breakthroughs in the fight against corrupt practices. First, in 1996, the OECD members adopted a recommendation that all members should prohibit the tax deductibility of bribes to foreign public officials. Prior to that, a majority of members had refused to consider eliminating such practices because bribes to foreign public officials were widely accepted in many parts of the world. A year later, at the May 1997 Ministerial, members agreed on a recommendation to negotiate a Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, in conformity with an already agreed-upon set of common

elements. These elements, with a few significant exceptions, track closely the provisions of the FCPA.

On November 21, 1997, negotiators from thirty-four countries (all twenty-nine OECD member states and Argentina, Brazil, Bulgaria, Chile, and the Slovak Republic) adopted the Convention at the OECD in Paris. It was signed on December 17, 1997. (Australia signed the Convention a year later after having completed required consultations with its Parliament.) On February 15, 1999, the Convention went into effect for the twelve countries that had deposited instruments of ratification with the OECD. The OECD Working Group on Bribery is monitoring implementation of the Convention and following up on several important issues that were not included in the final text. (See Chapters 3 and 6.)

OECD support for international antibribery initiatives, however, has gone beyond negotiating the Convention and monitoring its implementation. The OECD has also undertaken a variety of outreach activities in Latin America, Asia, Eastern Europe, and the former Soviet Union to assist countries in developing effective antibribery and good governance programs. The Anti-corruption Unit was established within the Secretariat to coordinate outreach activities and promote the goals of the Convention.

The Anti-Corruption Unit provides extensive information on the Convention and outreach activities on its webpage within the OECD website. Within the past year, the unit created the OECD Anticorruption Ring Online (AnCorR Web), which offers access to more than 2,500 selected references to books, journals, papers, reports, and other documents dealing with corruption and bribery. Many of these resources can be downloaded through the Web. AnCorR's goal is to disseminate information on all aspects of corrupt practices and efforts to address them so that governments and businesses can achieve greater transparency and integrity in their operations. AnCorR resource documents include the text of antibribery laws in OECD and non-OECD countries as well as international treaties and conventions dealing with bribery and corruption.

Outreach activities in 1999–2000 have been focusing on two main areas: (1) broadening the discussion of the OECD Convention and related instruments and (2) sharing information on national, regional, and international initiatives. This strategy relies on the continuous development of partnerships among major stakeholders such as the business community, nongovernmental organizations, governments, and

international organizations. In developing outreach programs, the Anticorruption Unit has collaborated with many public and private sector groups, including the U.S. Agency for International Development, the Asian Development Bank (ADB), the European Union (EU), the Organization for Security and Cooperation in Europe (OSCE), and Transparency International. In addition to organizing its own workshops, conferences, and seminars, the Anticorruption Unit participated in other international forums to disseminate information about the Convention and promote its objectives.

Since the Convention was adopted, the OECD Anticorruption Unit co-sponsored several events that brought together government officials, business leaders, journalists, and representatives of nongovernmental organizations to discuss the Convention and possible measures to fight bribery and corruption. Among the more recent events was a joint OECD/ADB workshop on combating corruption in Asian and Pacific economies, which took place in Manila on September 29–October 1, 1999. Some 200 individuals from thirty-six countries participated in the event. Through an exchange of views by government officials and representatives of business and civil society, the workshop sought to raise awareness of the seriousness of corruption in the region and to identify effective anticorruption strategies. Additional meetings to discuss anticorruption issues are planned for Central and Latin American regional organizations.

Complementing this effort, the OECD has also collaborated with the World Bank on a series of public/private sector roundtables aimed at improving corporate governance and identifying possible assistance needs. In February–June 2000, roundtables were held in Russia, Latin America, and Asia. Future roundtables are planned for Africa, the Middle East/North Africa, and Eurasian transition economies.

In another important joint initiative, the OECD and the EU have established the Support for Improvement in Governance and Management in Central and Eastern European Countries (SIGMA) program to help thirteen countries in the region reform public administration and strengthen the integrity of state institutions. The SIGMA program provides assistance to governments on developing a professional civil service with high standards of ethical conduct; improving independent audit and financial controls; establishing transparent, fair public procurement systems; improving the government service to the public and businesses; and enhancing the effectiveness of laws

and regulations. SIGMA activities support institution building and complement other EU-backed programs aimed at preparing these countries for eventual EU membership.

In September 1999, the SIGMA program and Transparency International worked together to create an Internet directory of national and international anticorruption programs operating in Central and Eastern Europe. Information on the Internet site will serve as a practical reference guide for those involved in the struggle against corruption, including donors, governments, nongovernmental organizations, journalists, businesses, and trade unions. The project is intended to facilitate the exchange of information and experiences on anticorruption work and to improve donor coordination.

The OECD Guidelines for Multinational Enterprises offer yet another vehicle for advancing the goals of the Convention. Originally adopted in 1976, the guidelines are designed to encourage multinational companies to undertake good business practices that promote mutual confidence and prevent misunderstandings between governments and civil society in overseas markets. OECD members are now considering a number of revisions to the guidelines. Among the revisions is a recommendation to include an entire chapter on combating bribery that tracks closely the key provisions of the Convention. While the guidelines are voluntary and not legally enforceable, they draw attention to the pernicious effects of bribery and corruption and encourage companies to take a proactive approach to addressing the problems. OECD ministers will consider whether to endorse the revised guidelines at their annual meeting on June 26–27, 2000.

The Organization for Security and Cooperation in Europe

The Organization for Security and Cooperation in Europe (OSCE) is a regional security organization whose fifty-five participating states are in Europe, the former Soviet Union, and North America. The United States is one of the organization's founding members. Established under the authority of Chapter VIII of the United Nations Charter, the OSCE is intended to serve as a primary instrument for early warning, conflict prevention, crisis management, and post-conflict rehabilitation in the European and Eurasian region. The OSCE addresses a wide range of security-related issues, including arms control, preventive diplomacy, confidence-building and security-building measures, human rights, election monitoring, and economic and environmental security.

The OSCE has established as one of its priorities consolidating the participating states' common values and helping build fully democratic civil societies based on the rule of law. The OSCE continues to provide active support for promoting democracy, the rule of law, and respect for human rights throughout the OSCE area.

Over the past two years, the United States has sought to bring greater attention to the threats posed by organized crime and corruption in OSCE participating states, particularly those in economic and political transition. At the annual meeting of the OSCE Parliamentary Assembly in 1999, the U.S. delegation called for convening an OSCE Ministerial meeting to develop a strategy to address these threats. Combating crime and corruption was also on the agenda of the OSCE Istanbul Summit in November 1999. In addition, the Eighth Annual Meeting of the OSCE Economic Forum, held in Prague on April 11–14, 2000, reviewed the impact of corruption on institution building and the rule of law in the context of helping regions recover from conflict. At that meeting, Commerce Assistant Secretary Patrick Mulloy, the senior U.S. delegate, worked to ensure that the next OSCE Economic Forum in 2001 would continue to focus on issues related to corruption.

The OSCE Permanent Council is also examining ways of contributing to efforts to combat corruption and is expected to report to OSCE foreign ministers later in 2000. In addition, the OSCE Parliamentary Assembly has agreed to discuss the topic of "OSCE Challenges in the 21st Century—Good Governance: Regional Cooperation, Strengthening Democratic Institutions, Promoting Transparency, Enforcing the Rule of Law and Combating Corruption" at its annual meeting in Bucharest on July 6–10, 2000.

The U.S. Commission on Security and Cooperation in Europe, the congressional–executive branch body that monitors U.S. participation in the OSCE (commonly known as the Helsinki Commission), has supported the organization's initiatives to combat corruption. At a hearing of the Commission held on March 23, 2000, Commission Chairman Rep. Christopher H. Smith testified that widespread corruption in the countries of the OSCE "threatens their ability to provide strong independent legal regimes, market-based economies and social well-being for their citizens." The full text of the testimony is available at www.house.gov/csce/.

United Nations

As an international organization with broad membership, the United Nations can play an especially use-

ful role in educating governments on the importance of good governance and the need for strong anticorruption programs. While UN resolutions on bribery and corruption are nonbinding, they have brought increased attention to the problem of corrupt practices and have encouraged member states to take action through national legislation and adherence to international agreements, such as the OECD Antibribery Convention and the Inter-American Convention Against Corruption.

Over the past decade, the United Nations has undertaken a variety of initiatives to promote discussion of corruption and its damaging effects and to assist member states in their efforts to address the problem. Both the General Assembly and the Economic and Social Commission have debated these issues at length and endorsed a number of resolutions in support of corrective action. Corruption and bribery have also been the subject of specialized meetings, such as UN congresses on the prevention of crime.

In 1996, the General Assembly adopted an International Code of Conduct for Public Officials and recommended that member states use the code as a tool to guide their efforts against corruption. That same year, the General Assembly approved the United Nations Declaration against Corruption and Bribery in International Commercial Transactions. In the declaration, member states pledged to criminalize bribery of foreign public officials in an effective and coordinated manner. Acting in parallel with the OECD, the General Assembly also endorsed denying the tax deductibility of bribes paid by any private or public corporation or individual of a member state to any public official or elected representative of another country.

The General Assembly reiterated its interest in promoting business integrity in 1998 with the adoption of a new resolution calling for international cooperation against corruption and bribery in international commercial transactions. The resolution urged member states to implement the Declaration Against Corruption and Bribery in International Commercial Transactions and the International Code of Conduct for Public Officials and to ratify, where appropriate, existing instruments against corruption. On December 22, 1999, the General Assembly adopted the U.S.-sponsored "Business and Development" resolution (54/204) calling upon governments to undertake anticorruption and antibribery efforts in order to create an enabling environment for business. At the same session, the General Assembly also adopted a complementary Guyana resolution (54/205) that supports

strengthening national and international capacities to combat corrupt practices and bribery in international transactions.

On a parallel track, the United States led a successful effort in 1999 to include a provision on official bribery in the Convention on Transnational Organized Crime now being negotiated in the UN. The provision would obligate convention signatories to establish as criminal offenses acts of corruption by public officials that involve organized crime. In addition, the ad hoc committee on the convention supported further work on a global instrument to combat corruption after the convention negotiations are completed. The UN General Assembly is expected to approve procedures for this work in the fall of 2000.

The United Nations Commission on International Trade Law (UNCITRAL) continues to provide valuable legal assistance to countries interested in improving their procurement laws and regulations and thus limiting the opportunities for bribery and corruption. In 1994, UNCITRAL approved a Model Law on Procurement of Goods, Construction, and Services, aimed at preventing bribery and corruption. A number of countries around the world have based their procurement laws or standards on provisions of the UNCITRAL Model Law. Many of the new democracies in Eastern Europe and the New Independent States have benefitted from UNCITRAL projects. Albania and Poland, for example, have already enacted legislation based on the UNCITRAL model law.

World Trade Organization

Bribery and corruption can affect international trade in many different ways. If left unchecked, it can negate market access gained through trade negotiations, undermine the foundations of the rules-based international trading system, and frustrate broader economic reforms and stabilization programs. U.S. firms report a variety of problems, but two key issues involve customs and government procurement. Bribes or “facilitation fees” from foreign customs officials can be an everyday element of the customs importation process in many countries. Another consistent complaint is that U.S. firms’ experiences in bidding for foreign government procurement contracts suggest that corruption frequently plays a significant role in determining how and to whom those contracts are awarded.

The United States has pressed the World Trade Organization (WTO) to take action to help prevent corruption in both these areas. With strong U.S. leadership, the Working Party on Preshipment Inspection issued a report in 1999 that included several immedi-

ate actions to be undertaken by members to strengthen the operation of the Agreement on Preshipment Inspection. In adopting this report, the WTO General Council extended the life of the Working Party for another year, with a specific mandate that included addressing customs reform. The United States has also led an initiative to ensure full and timely implementation of the WTO Agreement on Customs Valuation. Finally, as part of the follow-up to the WTO Ministerial decision to undertake exploratory and analytical work on the simplification of trade and customs procedures, the United States has identified customs integrity as a priority item.

At the 1996 WTO Ministerial Conference in Singapore, the United States succeeded in securing agreement to initiate work on transparency in government procurement. The focus on transparency offers many potential benefits. One in particular is that corruption cannot survive in an environment of openness and accountability where individual decisions are made in accordance with a predictable set of rules. Since the Singapore Ministerial Conference, the Working Group on Transparency in Government Procurement has made great progress on its mandate to study how WTO members can ensure transparency in government procurement, and to develop elements for inclusion in a multilateral agreement. To facilitate progress on the development of concrete WTO commitments, the United States, Hungary, Korea, and Singapore submitted a draft text for an agreement to the WTO General Council in November 1999. Intensive consultations organized by the United States in late 1999 resulted in a significant convergence of views on many of the key procedural elements of a potential agreement.

¹ See BG-131-2, “List of Participants and Composition of the Board of Governors, International Telecommunications Satellite Organization, One Hundred Thirty-First Meeting, 25 February–1 March 2000.”

² Ibid.

³ See INTELSAT Annual Reports of 1996, 1997, 1998.

